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ABSTRACT

This handbook makes clear what the legal rights and responsibilities of California teachers and students are with regard to moral and civic education. For example, the duty of teachers concerning the instruction of pupils in ethics, morals, manners, religion and democratic principles is explained through discussion of the values that teachers are responsible for teaching. The handbook includes information on the legalities of these issues and quotes significant excerpts from several legal sources, including the State of California and Federal Constitutions. The handbook also makes the distinction between teaching about religion, which is constitutionally allowed, as opposed to instruction in religion, which is not allowed. (DB)

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MORAL AND CIVIC EDUCATION AND TEACHING ABOUT RELIGION

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HANDBOOK ON THE LEGAL RIGHTS AND RESPONSIBILITIES
OF SCHOOL PERSONNEL AND STUDENTS
IN THE AREAS OF

MORAL AND CIVIC EDUCATION AND TEACHING ABOUT RELIGION

1991 REVISED EDITION

Publishing Information

This new edition of *Moral and Civic Education and Teaching About Religion* was prepared in accordance with the provisions of Senate Concurrent Resolution number 32 (see page vi). This revision supersedes the 1988 edition, which was adopted by the California State Board of Education on June 10, 1988. At that time the members of the Board were:

Francis Laufenberg, President	Gloria Hom
Jim C. Robinson, Vice-President	Susan Owens
Joseph D. Carrabino	Kenneth L. Peters
Agnes Chan	David T. Romero
Perry Dyke	Armen Sarafian

This edition of the handbook was edited by Marilyn J. Butts and Theodore R. Smith, and it was prepared for photo-offset production by the Bureau of Publications, working in cooperation with Tom Bogetich, Executive Director to the State Board. The cover design and format were created by Cheryl Shawver McDonald. The document was published for the California State Board of Education by the California Department of Education, 721 Capitol Mall, Sacramento, California (mailing address: P.O. Box 944272, Sacramento, CA 94244-2720). And it was distributed under the provisions of the Library Distribution Act, *Government Code* Section 11096, and SCR 32.

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Other Media Available

See pages 33 and 34 for information about 700 other educational resources that are available, at cost, from the California Department of Education.

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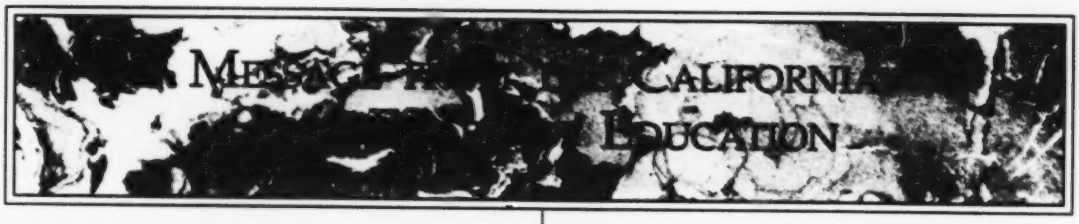


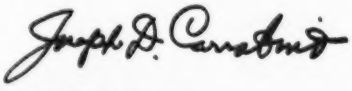
On January 12, 1973, the California State Board of Education adopted the first edition of this handbook. Then on June 10, 1988, the Board adopted an updated version of the 1973 document. Now, in response to Senate Concurrent Resolution 32 (see page vi), which was authored by Senator Newton R. Russell of Glendale, the State Board is pleased not only to issue a 1991 revised edition of the handbook but also to send a complimentary copy to every public school teacher in California.

This new edition of the *Handbook on the Legal Rights and Responsibilities of School Personnel and Students in the Areas of Moral and Civic Education and Teaching About Religion* reflects minor changes that have been made in laws and regulations since the 1988 edition was published. It also includes an expansion and updating of the text in Chapter IV to include references to all of the recent curricular frameworks that the Board has adopted, with special attention given to those parts of the frameworks that address the issues of this handbook. In addition, we believe the new format we selected for this edition will enhance its readability.

Just as those who served on the State Board of Education in 1973 and 1988 believed, we who serve in 1991 also believe that this document can be a valuable resource for our classroom teachers and school administrators. It contains pertinent information as to what can and should be taught in our schools about ethics, morals, manners, religion, and democratic principles. The handbook includes information on the legalities of these issues and quotes significant excerpts from several legal sources, including the state and federal Constitutions.

The handbook makes clear what the legal rights and responsibilities of teachers and students are with regard to moral and civic education. It also makes the distinction between teaching *about* religion, which is constitutionally allowed, as opposed to instruction *in* religion, which is not allowed.

We believe the text in this document provides a good, solid foundation whereby you who have responsibility for the education of our youth can continue to awaken them to the moral, civic, and religious values that are firmly grounded in our American heritage. We encourage your use of the handbook as you develop the instructional programs for our schools. Perhaps at no other time in our history has it been more important to help our children understand and appreciate that the American heritage and laws reflect a common core of personal and social morality that holds the citizens of this democracy responsible for telling the truth, for being trustworthy, and for respecting the rights and property of others—and for holding such behavior in the highest regard.



JOSEPH D. CARRABINO
President of the California State Board of Education, 1991

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Senate Concurrent Resolution No. 32
RESOLUTION CHAPTER 123
Senate Concurrent Resolution No. 32—Relative to education
[Filed with Secretary of State September 15, 1989.]
LEGISLATIVE COUNSEL'S DIGEST

SCR 32, Russell. Education

This measure would request the State Department of Education to provide to every public elementary and secondary school teacher the "Handbook on the Legal Rights and Responsibilities of School Personnel and Students in the Areas of Moral and Civic Education and Teaching About Religion," which was adopted by the State Board of Education on June 10, 1988. The measure also would request the department to send a program advisory to every school district in the state advising that the handbook should be read by every teacher and incorporated into all course material where appropriate. The measure also would request the department to incorporate into the state's regional workshops on the History-Social Science Framework, teacher training based on the precepts set forth in the handbook. This measure also would request the department to consider the feasibility of providing funding for the distribution of the handbook and related information from specified federal funds and from any other available resources, including private funds.

WHEREAS, The American heritage and laws reflect a common core of personal and social morality, including telling the truth, being trustworthy, and respecting the rights and property of others; and

WHEREAS, The Judeo-Christian heritage is a rich and diverse heritage that has influenced the shaping of fundamental moral values in society and has affirmed in many ways that human beings are moral persons responsible for their own behavior and the well-being of other persons; and

WHEREAS, Public school children should have knowledge of those principles of morality established by tradition and heritage as well as enforced by the laws of this state and of the United States; and

WHEREAS, Public school children should have knowledge of, and appreciate the significant contributions of, religion in history and law, and should understand that criminal law reflects moral judgments about standards of conduct held to be enforceable by society; and

WHEREAS, Public school teachers have the responsibility of helping pupils to identify values and moral issues underlying American society; and

WHEREAS, Section 44806 of the Education Code requires each teacher to endeavor ". . . to impress upon the minds of the pupils the principles of morality, truth, justice, patriotism, and a true comprehension of the rights, duties, and dignity of American citizenship. . . ."; and

WHEREAS, The members of the State Board of Education have concerned themselves with the moral and ethical development of the children of California, demonstrated by their adoption of the "Handbook on the Legal Rights and Responsibilities of School Personnel and Students in the Areas of Moral and Civic Education and Teaching About Religion"; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the State Department of Education is hereby requested to do all of the following:

(a) Provide to every public elementary and secondary school teacher the "Handbook on the Legal Rights and Responsibilities of School Personnel and Students in the Areas of Moral and Civic Education and Teaching About Religion," which was adopted by the State Board of Education on June 10, 1988.

(b) Send a program advisory to every school district in the state advising that the handbook should be read by every teacher and incorporated into all course material where appropriate.

(c) Incorporate into the state's regional workshops on the History-Social Science Framework, teacher training based on the precepts set forth in the handbook.

(d) Consider the feasibility of providing funding for the distribution of the handbook and related information from funds received in the 1990-91 fiscal year from Chapter 2 of Title 1 of the Elementary and Secondary Education Act entitled "Federal, State, and Local Partnership for Educational Improvements," and from any other available resources, including private funds; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Superintendent of Public Instruction.

LEGAL RESPONSIBILITIES OF SCHOOL PERSONNEL

Education Code Section 44806 prescribes the duty of teachers concerning the instruction of pupils in morals, manners, and citizenship as follows:

> Each teacher shall endeavor to impress upon the minds of the pupils the principles of morality, truth, justice, patriotism, and a true comprehension of the rights, duties, and dignity of American citizenship, including kindness toward domestic pets and the humane treatment of living creatures, to teach them to avoid idleness, profanity, and falsehood, and to instruct them in manners and morals and the principles of a free government.

EDUCATIONAL RESPONSIBILITIES OF SCHOOL PERSONNEL

Morality

Fundamental moral values. School personnel must foster in students an understanding of the moral values that form the foundation of American society. The American heritage and laws reflect a common core of personal and social morality. Habits that reveal a commitment to moral values include telling the truth, being trustworthy, and respecting the opinions of others. Moral people affirm the worth and dignity of others in their attitudes and actions. They take responsibility for their decisions and for the consequences of those decisions. Moral people also value freedom of conscience and respect the freedom of conscience of others. They have a capacity for self-evaluation and are willing to admit error and alter views. Morally committed people hold and express their own moral convictions and beliefs and respect the diverse views of other individuals and groups.

Respect for differences. Individuals and groups differ from one another. Respect for differences is intrinsic to the healthy development of a heterogeneous society. In a free society all persons and groups are to be treated equitably, regardless of ethnic, racial, or religious differences. Latitude for genuine disagreement on moral issues and appreciation of individual and group differences are part of the American heritage and are important for contemporary society. Adherence to lawful means for settling disputes is morally required in our society. Self-criticism and disagreement have contributed to the vitality of our nation and have enabled orderly change to occur, a situation unlike that in a totalitarian society, where attempts are made to control thought and suppress ideas.

Significance of religion. The significance of religion in shaping moral and ethical precepts appeared early in American history when the writers of the Declaration of Independence affirmed that "all men are created equal" and "are endowed by their Creator with certain unalienable rights . . . ." No single system of religion or morality may be prescribed by government; however, school personnel should assist students to (1) recognize the sources of morality in history, law, and experience; and (2) appreciate the significant contributions of religion, including respect for the sacredness of human life and belief in freedom of worship. Prominent in the shaping of fundamental moral values in our society has been the influence of the

Judeo-Christian heritage. This rich and diverse heritage affirms in many ways that human beings are moral persons responsible for their own decisions and behavior and that they are obliged to concern themselves about the well-being of other persons and to respect living creatures and the physical environment.

Truth

Search for truth. Telling the truth and expecting to be told the truth are essential to the development of (1) personal self-esteem and basic friendships; and (2) genuine understanding of our society, its history, and the democratic process. A commitment to telling the truth embraces the conscientious pursuit and scrutiny of evidence. Students must learn to respect the processes involved in the search for truth. They should learn to identify and assess facts; distinguish substantial from insubstantial evidence; separate the process of searching for truth from the acceptance of propaganda; and examine in a constructive and unbiased manner controversial subjects such as politics, ethics, and religion. School personnel should assist students to develop their abilities to communicate effectively as they accumulate knowledge and reach conclusions.

Open discussion. Free discussion in the classroom on questions of value and morality is fundamental to the search for truth. This approach is premised on a consideration of the American experience as seen in tradition and law. Open discussion requires scrutiny of possible options; it promotes decision making and problem solving. Students learn that they are responsible for their choices, the consequences of their choices, and their influence on other persons. School personnel should ensure that students have opportunities to inquire, to question, and to exchange ideas. The teacher should provide opportunities for students to try to understand conflicting points of view, to deliberate, and to develop sensitivity to persons who hold contrary views.

Open discussion is central to instruction on values and morality; it is contrary to indoctrination. Indoctrination is an act or process wherein students are told what to think or believe. As used in this handbook, to indoctrinate is to dictate; it is to promote a special viewpoint and to refuse genuinely to consider other possible options. To dictate is to dismiss opposing views or values without scrutiny and without consideration of possible beneficial aspects of the views or values dismissed. Statements made without regard to facts or made merely to vindicate personal prejudice must be rejected as alien to the educational process.

Justice

Justice, or fairness in dealing with others, is a hallmark of our society. It is premised on a proper regard for oneself and others. The struggle to attain justice is found in American history, particularly in the development of American law.

Students should realize that attempts to deal justly with other individuals and groups must be enlightened by one's own sense of self; empathy, a developing capacity to understand cause and effect and the lessons of history; correct judgment as to right and wrong actions; and the ability to deal critically with one's own motives. Justice, which requires constant attention to the preceding considerations, may be only approximated. Nonetheless, one owes to oneself and to others the obligation to engage in a constant effort to see that justice is attained. Treating the members of one's family, one's friends, and other persons with fairness in everyday relationships encourages the development of a just attitude in all human affairs.

Patriotism

Love for country and loyalty to it. Love of country and loyalty to its purposes are premised on the worth and dignity of persons who give their love and loyalty freely. Students should understand the origins of the nation, the principles of the Declaration of Independence, and the ideals and hopes of the Founding Fathers. They should develop a respect for the fundamental law of the land, together with a concern for the just enforcement and improvement of the law. The public school should foster informed and dedicated concern for America and its ideals; it should also encourage an understanding of other nations and other ap-

proaches to government throughout history and at the present time. As our forefathers did, we must show a "decent respect for the opinions of mankind."

Religious and ethical commitments. Commitment to America as viewed historically or currently is compatible with religious and ethical commitments. The law recognizes the claims of conscience and fundamental religious convictions. The First Amendment to the Constitution protects the free exercise of religion; freedom of worship is a distinct part of the American heritage. Constitutional protection of religious belief and practice is one way of ensuring that persons and groups in the United States can profess and act on their beliefs to the extent that these actions are compatible with the rights of others and the law.

Self-esteem

School personnel should provide an environment that enhances a student's self-esteem. Self-esteem, valuing oneself, is a requisite for making moral decisions and for esteeming other persons. Students are responsible for their own judgments and should be encouraged to express their own views and to respond respectfully to the views of others. Self-esteem and esteem for others are based on the intrinsic worth and dignity of individuals, not on academic ability or physical prowess. To ridicule a student is to undermine his or her self-esteem and to violate his or her dignity.

Integrity

School personnel should encourage students to live and speak with integrity; that is, to be trustworthy. To foster integrity is to help build character, to assist students to be honest with themselves, to promote a wholeness unimpaired by self-deceit, and to encourage the development of reliability in relations with others. To be trustworthy is to be true to the trust placed in one. Trustworthy people are expected to fulfill their promises; such people attempt to express themselves honestly. Informed and sincere expressions should be respected, whether they come from teachers or students. To act otherwise is to encourage lying, apathy, and resentment, none of which promotes education or personal integrity.

Empathy

The golden rule, a rule stating that we should do to others as we would have others do to us, is an ancient maxim shared by many peoples. This simple rule must be paramount in one's dealings with others. For example, school personnel should demonstrate in their lives a capacity to empathize with students; students likewise must seek to understand others and to empathize with them. One who wishes to be heard must be one who listens; one who wishes to be treated with dignity and respect must treat others with dignity and respect.

Exemplary Conduct

The attitudes and values of students are shaped by adults whom they emulate and by school personnel whom they respect. The attitudes and conduct of all school personnel—teachers, counselors, administrators, secretaries, and custodians—present daily lessons in morality, not the least of which is fairness in dealing with antisocial behavior. Good teachers are interested in and concerned for students. They are enthusiastic about the subject or subjects they teach, and they present what they know honestly and openly. They encourage students to do their best but allow for shortcomings. In evaluating the work and activities of students, good teachers use fair standards. They discipline evenhandedly, and they reject poor sportsmanship and cheating. All of these attitudes and actions on the part of the teacher are eloquent lessons in morality worthy of emulation.

Moral Interaction and Ethical Reflection

In the classroom. Free discussion of values and situations involving morality is but one part of instruction that fosters moral interaction and ethical reflection. The total environment of the classroom should be conducive to the promotion of learning and the fostering of the student's self-esteem, integrity, and respect for other persons and their property. Important components of this

classroom environment are the teacher's attitude and manner of acting, classroom decorum, and the basic rules that guide students' interactions and that protect students against harm.

Throughout the school. The entire school should offer an environment that fosters moral and ethical interaction among students and adults. Administrators, counselors, and staff members are especially important in the establishment and maintenance of an environment that is conducive to moral development. Precisely those situations in a school day that can present demoralizing and depersonalizing experiences for students must be recognized as critical opportunities to encourage moral development and responsibility.

School personnel should deal firmly and justly with a student who imposes a demoralizing, depersonalizing, dangerous, or fear-provoking situation on another student. Nevertheless, an administrator or teacher who admonishes or punishes a student must be fair to that student. A counselor who advises a student should demonstrate an interest in and respect for that student. A secretary who treats a student with disrespect fails to carry out a moral responsibility. The ridicule of students or their views is detrimental to moral interaction; and sarcasm, prejudiced statements, and unfair discrimination are indefensible.

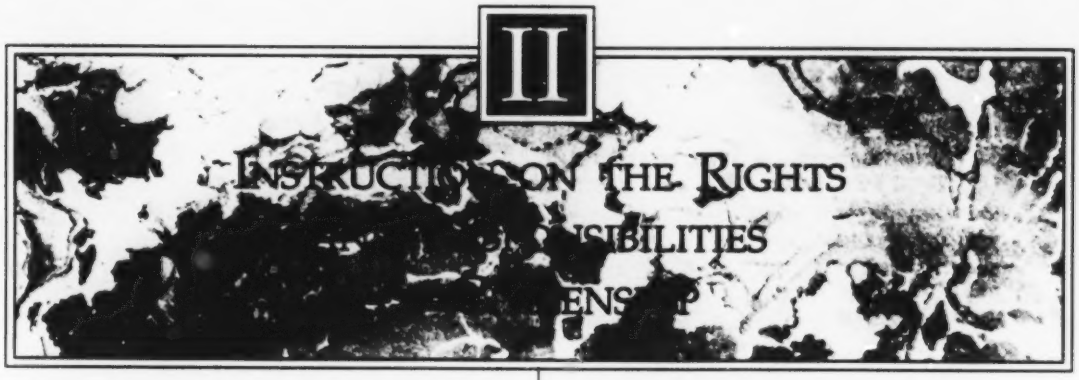
Capacity to Recognize Values

Respect for the family and other groups. School personnel have the responsibility of helping students to recognize the values and moral issues underlying American society. The family and various community groups are basic units in society; they are fundamental sources of values. In a family as in other community groups, persons should have an opportunity to test their ideas and to recognize limitations placed on their actions in a context of concern and expectation. The family unit offers a foundation for self-esteem, industry, trust, comfort, and affirmation of individual worth. School personnel should realize, however, that vast differences exist within and among the basic units of society. These differences are rooted in religious, cultural, ethnic, and racial traditions and in social and economic conditions.

Respect for property. In America respect for property, including public property, is rooted in the recognition of the worth and dignity of persons, their right to their possessions, and their common interests as citizens. Morally, to injure a person or damage his or her property is to become responsible for the injury or damage; legally, one may become liable to compensate for the injury or the damage. Similarly, one is responsible in regard to property held in common, such as schools, parks, streets, lakes, and forests. All citizens must seek to maintain an environment that is conducive to the common mental and physical well-being of the citizens. Litter, pollution, and destruction of property are detrimental to persons and to society.

Reliability. School personnel should help students realize that the moral and legal fabric of our society depends on one's willingness to tell the truth, to avoid misrepresentation and fraud in commercial transactions, and to fulfill one's promises. Students should be made aware of the need to evaluate advertising (on television and elsewhere), commercial practices, consumer information, and products. They should be helped to appreciate and to assess the roles of private and public agencies that have been established to promote honesty in commercial transactions. Students should also be helped to realize that the act of fulfilling one's promises assures others of one's trustworthiness and reliability and that this reliability forms the basis for contractual obligations in our society.

Respect for law. In America it is morally and legally incumbent on all to live under the law. School personnel should make clear to students that disagreements that lead to unlawful conflict will be resolved by authoritative action. Students should be assisted to realize that the criminal law reflects moral judgments about standards of conduct held to be enforceable by society and that actions in violation of this law may be punished. Laws should be obeyed until they are changed by lawful means.



LEGAL RIGHTS AND RESPONSIBILITIES OF TEACHERS

Academic Freedom and Professional Conduct

The *Policy Manual of the Commission on Teacher Credentialing* sets forth the code of ethics of the teaching profession as follows:

1040. [*Preamble*] The educator believes in the worth and dignity of human beings. The educator recognizes the supreme importance of the pursuit of truth, devotion to excellence, and the nurture of democratic citizenship. The educator regards as essential to these goals the protection of freedom to learn and to teach and the guarantee of equal educational opportunity for all. The educator accepts the responsibility to practice the profession according to the highest ethical standards. The educator recognizes the magnitude of the responsibility being accepted in choosing a career in education and engages individually and collectively with other educators to judge colleagues, and to be judged by them, in accordance with the provisions of this code.

1041. [*Principle I. Commitment to the Student*] The educator measures success by the progress of each student toward realization of potential as a worthy and effective citizen. The educator, therefore, works to stimulate the spirit of inquiry, the acquisition of knowledge and understanding, and the thoughtful formulation of worthy goals. In fulfilling these goals, the educator:

(a) Encourages the student to independent action in the pursuit of learning and provides access to varying points of view.
(b) Prepares the subject carefully, presents it to the students without distortion, and–within the limits of time and curriculum–gives all points of view a fair hearing.
(c) Protects the health and safety of students.
(d) Honors the integrity of students and influences them through constructive criticism rather than by ridicule and harassment.
(e) Provides for participation in educational programs without regard to race, color, creed, national origin, or sex–both in what is taught and how it is taught.
(f) Neither solicits nor involves students or their parents in schemes for commercial gain, thereby ensuring that professional relationships with them shall not be used for private advantage.
(g) Shall keep in confidence information that has been obtained in the course of professional service, unless disclosure serves professional purposes or is required by law.

1042. [*Principle II. Commitment to the Public*] The educator believes that democratic citizenship in its highest form requires dedication to the principles of our democratic heritage. The educator shares with all other citizens the responsibility for the development of sound public policy and assumes full political and citizenship responsibilities. The educator bears particular responsibility for the development of policy relating to the extension of educational opportunities for all, and for interpretation of educational programs and policies to the public. In fulfilling these goals, the educator:

(a) Has an obligation to support the profession and institution and not to misrepre-

sent them in public discussion. When being critical in public, the educator has an obligation not to distort the facts. When speaking or writing about policies, the educator must take adequate precautions to distinguish the educator's private views from the official position of the institution.

(b) Does not interfere with a colleague's exercise of political and citizenship rights and responsibilities.

(c) Ensures that institutional privileges shall not be used for private gain. Does not exploit pupils, their parents, colleagues, nor the school system itself for private advantage. Does not accept gifts or favors that might impair or appear to impair professional judgment nor offer any favor, service, or thing of value to obtain special advantage.

1043. [*Principle III: Commitment to the Profession*] The educator believes that the quality of the services of the education profession directly influences the nation and its citizens. The educator therefore exerts every effort to raise professional standards to improve service, to promote a climate in which the exercise of professional judgment is encouraged, and to achieve conditions which attract persons worthy of trust to careers in education. In fulfilling these goals, the educator:

(a) Accords just and equitable treatment to all members of the profession in the exercise of their professional rights and responsibilities.

(b) Does not use coercive means or promise special treatment in order to influence professional decisions of colleagues.

(c) Does not misrepresent personal professional qualifications.

(d) Does not misrepresent the professional qualifications of his or her colleagues and will discuss these qualifications fairly and accurately when discussion serves professional purposes.

(e) Applies for, accepts, offers, and assigns positions of responsibility on the basis of professional preparation and legal qualifications.

(f) Uses honest and effective methods of administering his or her educational responsibility. Conducts professional business through proper channels. Does not assign unauthorized persons to educational tasks. Uses time granted for its intended purposes. Does not misrepresent conditions of employment. Lives up to the letter and spirit of contracts.

Sections 80331—80338 of Title 5 of the *California Code of Regulations*[1] sets forth the "Rules of Conduct for Professional Educators" as follows:

80331. [*General Provisions*]

(a) These rules are binding upon every person holding a credential or any license to perform educational services under the jurisdiction of the Commission on Teacher Credentialing, and the consequences of any willful breach may be revocation or suspension of the credential, or license, or private admonition of the holder.

(b) Nothing in these rules is intended to limit or supersede any provision of law relating to the duties and obligations of certificated persons or to the consequences of the violation of such duties and obligations. The prohibition of certain conduct in these rules is not to be interpreted as approval of conduct not specifically cited.

(c) These rules may be cited and referred to as "Rules of Conduct for Professional Educators."

(d) The Commission shall complete a study of the effect of these rules and present its findings to the Governor, the Legislature, and the State Board of Education no later than September 1, 1989.

(e) As used in these rules:

(1) "Certificated person" means any person who holds a certificate, permit, credential, or other license authorizing the performance of teaching or education-related service in grades kindergarten through twelve in the California public schools.

(2) "Professional employment" means the performance for compensation of teaching or other education-related employment in a position for which certification requirements are set by law.

(3) "Confidential information" means information which was provided to the certificated person solely for the purpose of facilitating his/her performance of professional services for or on behalf of the person or employer providing such information.

[1] Adopted by the Commission on Teacher Credentialing and operative as of February 3, 1989. Prior to 1988 the *California Code of Regulations* was titled *California Administrative Code*.

80332. [*Professional Candor and Honesty in Letters or Memoranda of Employment Recommendation.*]

(a) A certificated person shall not write or sign any letter or memorandum which intentionally omits significant facts, or which states as facts matters which the writer does not know of his/her own knowledge to be true relating to the professional qualifications or personal fitness to perform certificated services of any person whom the writer knows will use the letter or memorandum to obtain professional employment; nor shall he/she agree to provide a positive letter of recommendation which misrepresents facts as a condition of resignation or for withdrawing action against the employing agency.

(b) This rule has no application to statements identified in the letter or memorandum as personal opinions of the writer but does apply to unqualified statements as fact that which the writer does not know to be true or to statements as fact that which the writer knows to be untrue.

80333. [*Withdrawal from Professional Employment*]

(a) A certificated person shall not abandon professional employment without good cause.

(b) "Good cause" includes but is not necessarily limited to circumstances not caused by or under the voluntary control of the certificated person.

80334. [*Unauthorized Private Gain or Advantage*] A certificated person shall not:

(a) Use for his/her own private gain or advantage or to prejudice the rights or benefits of another person any confidential information relating to students or fellow professionals;

(b) Use for his/her own private gain or advantage the time, facilities, equipment, or supplies which are the property of his/her employer without the express or clearly implied permission of his/her employer;

(c) Accept any compensation or benefit or thing of value other than his/her regular compensation for the performance of any service which he/she is required to render in the course and scope of his/her certificated employment. This rule shall not restrict performance of any overtime or supplemental services at the request of the school employer; nor shall it apply to or restrict the acceptance of gifts or tokens of minimal value offered and accepted openly from students, parents, or other persons in recognition or appreciation of service.

80335. [*Performance of Unauthorized Professional Services*] A certificated person shall not, after July 1, 1989:

(a) Knowingly, accept an assignment to perform professional services if he or she does not possess a credential authorizing the service to be performed; unless he or she has first exhausted any existing local remedies to correct the situation, has then notified the county superintendent of schools in writing of the incorrect assignment, and the county superintendent of schools has made a determination, within 45 days of receipt of the notification, that the assignment was caused by extraordinary circumstances which make correction impossible, pursuant to the procedures referred to in *Education Code* Section 44258.9(g)(2) and (3).

(b) Knowingly and willfully assign or require a subordinate certificated person to perform any professional service which the subordinate is not authorized to perform by his or her credential or which is not approved by appropriate governing board authorization, unless he or she has made reasonable attempts to correct the situation but has been unsuccessful, and has notified the county superintendent of schools of those attempts, and the county superintendent of schools has determined, within 45 days of being notified of the assignment, that the assignment was caused by extraordinary circumstances which make correction impossible.

(c) Neither (a) nor (b) shall be applicable in a situation where extraordinary circumstances make the correction of the misassignment impossible.

(d) There shall be no adverse action taken against a certificated person under this rule for actions attributable to circumstances beyond his or her control.

80336. [*Performance with Impaired Faculties*]

(a) A certificated person shall not:

(1) Perform or attempt to perform any duties or services authorized by his or her credential during any period in which he or she knows or is in

possession of facts showing that his or her mental or intellectual faculties are substantially impaired for any reason, including but not limited to use of alcohol or any controlled substance.

(2) Assign or require or permit a subordinate certificated person to perform any duties authorized by his or her credential during any period in which the superior certificated person knows of his or her own knowledge or is in possession of facts showing that the subordinate certificated person's mental or intellectual faculties are substantially impaired for any reason, including but not limited to use of alcohol or any controlled substance.

(b) For the purpose of this rule, substantial impairment means a visible inability to perform the usual and customary duties of the position in a manner that does not represent a danger to pupils, employees, or school property. It does not include or mean inability attributable to lack of, or inadequate, professional preparation or education.

80337. [*Harassment and Retaliation Prohibited*] No certificated person shall directly or indirectly use or threaten to use any official authority or influence in any manner whatsoever which tends to discourage, restrain, interfere with, coerce, or discriminate against any subordinate or any certificated person who in good faith reports, discloses, divulges, or otherwise brings to the attention of the governing board of a school district, the Commission on Teacher Credentialing, or any other public agency authorized to take remedial action, any facts or information relative to actual or suspected violation of any law regulating the duties of persons serving in the public school system, including but not limited to these rules of professional conduct.

80338. [*Discrimination Prohibited*] A certificated person shall not, without good cause, in the course and scope of his or her certificated employment and solely because of race, color, creed, gender, national origin, handicapping condition, or sexual orientation, refuse or fail to perform certificated services for any person.

"Each teacher shall endeavor to impress upon the minds of the pupils the principles of morality, truth, justice, patriotism, and a true comprehension of the rights, duties, and dignity of American citizenship. . . ."

Instruction in Democratic Values and Principles

The *Education Code* deals with instruction in democratic values and principles as follows:

44806. [*Duty Concerning Instruction of Pupils Concerning Morals, Manners, and Citizenship*] Each teacher shall endeavor to impress upon the minds of the pupils the principles of morality, truth, justice, patriotism, and a true comprehension of the rights, duties, and dignity of American citizenship, including kindness toward domestic pets and the humane treatment of living creatures, to teach them to avoid idleness, profanity, and falsehood, and to instruct them in manners and morals and the principles of a free government.

51002. [*Development of Local Programs Within Guidelines*] The Legislature hereby recognizes that, because of the common needs and interests of the citizens of this state and the nation, there is a need to establish a common state curriculum for the public schools, but that, because of economic, geographic, physical, political, and social diversity, there is a need for the development of educational programs at the local level, with the guidance of competent and experienced educators and citizens. Therefore, it is the intent of the Legislature to set broad minimum standards and guidelines for educational programs, and to encourage local districts to develop programs that will best fit the needs and interests of the pupils, pursuant to stated philosophy, goals, and objectives.

51050. [*Enforcement of Courses of Study and Use of Textbooks*] The governing board of every school district shall enforce in its schools the courses of study and the use of textbooks and other instructional materials prescribed and adopted by the proper authority.

51500. [*Prohibited Instruction or Activity*] No teacher shall give instruction nor shall a school district sponsor any activity which reflects adversely upon persons because of their race, sex, color, creed, handicap, national origin, or ancestry.

51501. [*Prohibited Means of Instruction*] No textbook or other instructional materials shall be adopted by the state board or by any governing board for use in the public schools which contains any matter reflecting adversely upon persons because of their race, sex, color, creed, handicap, national origin, or ancestry.

51510. [*Prohibited Study of Supplemental Materials*] Except as to textbooks approved by the state board or a county board of education, no bulletin, circular, or publication may be used as the basis of study or recitation or to supplement the regular school studies if the material contained in the bulletin, circular, or publication has been disapproved by the governing board of the school district in which the school is situated.

51530. [*Prohibition and Definition (of Communism)*] No teacher giving instruction in any school, or on any property belonging to any agencies included in the public school system, shall advocate or teach communism with the intent to indoctrinate or to inculcate in the mind of any pupil a preference for communism.

In prohibiting the advocacy or teaching of communism with the intent of indoctrinating or inculcating a preference in the mind of any pupil for such doctrine, the Legislature does not intend to prevent the teaching of the facts about communism. Rather, the Legislature intends to prevent the advocacy of, or inculcation and indoctrination into, communism as is hereinafter defined, for the purpose of undermining patriotism for, and the belief in, the government of the United States and of this state.

For purposes of this section, communism is a political theory that the presently existing form of government of the United States or of this state should be changed, by force, violence, or other unconstitutional means, to a totalitarian dictatorship which is based on the principles of communism as expounded by Marx, Lenin, and Stalin.

52720. [*Daily Performance of Patriotic Exercises in Public Schools*] In every public elementary school each day during the school year at the beginning of the first regularly scheduled class or activity period at which the majority of the pupils of the school normally begin the schoolday, there shall be conducted appropriate patriotic exercises. The giving of the Pledge of Allegiance to the Flag of the United States of America shall satisfy the requirements of this section.

In every public secondary school there shall be conducted daily appropriate patriotic exercises. The giving of the Pledge of Allegiance to the Flag of the United States of America shall satisfy such requirement. Such patriotic exercises for secondary schools shall be conducted in accordance with the regulations which shall be adopted by the governing board of the district maintaining the secondary school.

60044. [*Prohibited Instructional Materials*] No instructional materials shall be adopted by any governing board for use in the schools which, in its determination, contain:

(a) Any matter reflecting adversely upon persons because of their race, color, creed, national origin, ancestry, sex, handicap, or occupation.
(b) Any sectarian or denominational doctrine or propaganda contrary to law.

60650. [*Personal Beliefs*] No test, questionnaire, survey, or examination containing any questions about the pupil's personal beliefs or practices in sex, family life, morality, and religion, or any questions about his parents' or guardians' beliefs and practices in sex, family life, morality, and religion, shall be administered to any pupil in kindergarten or grade one through grade twelve, inclusive, unless the parent or guardian of the pupil is notified in writing that such test, questionnaire, survey, or examination is to be administered and the parent or guardian of the pupil gives written permission for the pupil to take such test, questionnaire, survey, or examination.

LAWS RELEVANT TO STUDENTS

The *Education Code* prescribes rules for student conduct as follows:

44807. [*Duty Concerning Conduct of Pupils*] Every teacher in the public schools shall hold pupils to a strict account for their conduct on the way to and from school, on the playgrounds, or during recess. A teacher, vice principal, principal, or any other certificated employee of a school district, shall not be subject to criminal prosecution or criminal penalties for the exercise, during the performance of his or her duties, of the same degree of physical control over a pupil that a parent would be legally privileged to exercise but

which in no event shall exceed the amount of physical control reasonably necessary to maintain order, protect property, or protect the health and safety of pupils, or to maintain proper and appropriate conditions conducive to learning. The provisions of this section are in addition to and do not supersede the provisions of Section 49000.

48900. [*Grounds for Suspension or Expulsion; Legislative Intent*] A pupil shall not be suspended from school or recommended for expulsion unless the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has:

(a) Caused, attempted to cause, or threatened to cause physical injury to another person.
(b) Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object unless, in the case of possession of any object of this type, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal.
(c) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the *Health and Safety Code*, an alcoholic beverage, or an intoxicant of any kind.
(d) Unlawfully offered, arranged, or negotiated to sell any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the *Health and Safety Code*, an alcoholic beverage, or an intoxicant of any kind, and then either sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.
(e) Committed or attempted to commit robbery or extortion.
(f) Caused or attempted to cause damage to school property or private property.
(g) Stolen or attempted to steal school property or private property.
(h) Possessed or used tobacco, or any products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, this section does not prohibit use or possession by a pupil of his or her own prescription products.
(i) Committed an obscene act or engaged in habitual profanity or vulgarity.
(j) Had unlawful possession of, or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Section 11014.5 of the *Health and Safety Code*.
(k) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.
(l) Knowingly received stolen school property or private property.

No pupil shall be suspended or expelled for any of the acts enumerated unless that act is related to school activity or school attendance occurring within a school under the jurisdiction of the superintendent or principal or occurring within any other school district. A pupil may be suspended or expelled for acts which are enumerated in this section and related to school activity or attendance which occur at any time, including, but not limited to, any of the following:

(1) While on school grounds.
(2) While going to or coming from school.
(3) During the lunch period whether on or off the campus.
(4) During, or while going to or coming from, a school-sponsored activity.

It is the intent of the Legislature that alternatives to suspensions or expulsion be imposed against any pupil who is truant, tardy, or otherwise absent from school activities.

48900.5. [*Suspension; Limitation on Imposition; Exception*] Suspension shall be imposed

only when other means of correction fail to bring about proper conduct. However, a pupil, including an individual with exceptional needs, as defined in Section 56026, may be suspended for any of the reasons enumerated in Section 48900 upon a first offense, if the principal or superintendent of schools determines that the pupil violated subdivision (a), (b), (c), (d), or (e) of Section 48900 or that the pupil's presence causes a danger to persons or property or threatens to disrupt the instructional process.

48901. [*Smoking or Use of Tobacco or Tobacco or Nicotine Products Prohibited; Steps to Discourage Smoking*]

(a) No school shall permit the smoking or use of tobacco, or any product containing tobacco or nicotine products, by pupils of the school while the pupils are on campus, or while attending school-sponsored activities or while under the supervision and control of school district employees.
(b) The governing board of any school district maintaining a high school shall take all steps it deems practical to discourage high school students from smoking.

48902. [*Notification of Law Enforcement Authorities If Student Violates Assault or Controlled Substance Provision; Civil or Criminal Immunity*]

(a) The principal of a school or the principal's designee shall, prior to the suspension or expulsion of any pupil, notify the appropriate law enforcement authorities of the county or city in which the school is situated, of any acts of the student which may violate Section 245 of the *Penal Code*.
(b) The principal of a school or the principal's designee may, prior to suspension or expulsion of any pupil, notify the appropriate law enforcement authority of the county or the school district in which the school is situated of any acts of the students which may violate subdivision (c) or (d) of Section 48900 of the *Education Code*.
(c) Notwithstanding subdivision (b), the principal of a school or the principal's designee shall notify the appropriate law enforcement authorities of the county or city in which the school is located of any acts of a student that may involve the possession or sale of narcotics or of a controlled substance or a violation of Section 626.9 or 626.10 of the *Penal Code*.
(d) A principal, the principal's designee, or any other person reporting a known or suspected act described in subdivision (a) or (b) is not civilly or criminally liable as a result of any report authorized by this article unless it can be proven that a false report was made and that the person knew the report was false or the report was made with reckless disregard for the truth or falsity of the report.

48905. [*Injury or Damage to Person or Property of School District Employee; Willful Misconduct of Pupil; Request for Legal Action by School District*] An employee of a school district whose person or property is injured or damaged by the willful misconduct of a pupil who attends school in such district, when the employee or the employee's property is (1) located on property owned by the district; (2) being transported to or from an activity sponsored by the district or a school within the district; (3) present at an activity sponsored by such district or school; or (4) otherwise injured or damaged in retaliation for acts lawfully undertaken by the employee in execution of the employee's duties, may request the school district to pursue legal action against the pupil who caused the injury or damage, or the pupil's parent or guardian pursuant to Section 48904.

48907. [*Student Exercise of Free Expression*] Students of the public schools shall have the right to exercise freedom of speech and of the press including, but not limited to, the use of bulletin boards, the distribution of printed materials or petitions, the wearing of buttons, badges, and other insignia, and the right of expression in official publications, whether or not such publications or other means of expression are supported financially by the school or by use of school facilities, except that expression shall be prohibited which is obscene, libelous, or slanderous. Also prohibited shall be material which so incites students as to create a clear and present danger of the commission of unlawful acts on school premises or the violation of lawful school regulations, or the substantial disruption of the orderly operation of the school.

48908. [*Duties of Pupils*] All pupils shall comply with the regulations, pursue the

required course of study, and submit to the authority of the teachers of the schools.

48909. [*Narcotics or Other Hallucinogenic Drugs*] When a petition is requested in juvenile court or a complaint filed in any court alleging that a minor of compulsory school attendance age or any pupil currently enrolled in a public school in a grade to and including grade 12 is a person using, selling, or possessing narcotics or other hallucinogenic drugs or substances, or having inhaled or breathed the fumes of, or ingested any poison classified as such in Section 4160 of the *Business and Professions Code*, the district attorney may, within 48 hours, provide written notice to the superintendent of the school district of attendance, notwithstanding the provisions of Section 827 of the *Welfare and Institutions Code*, and to the pupil's parent or guardian.

48910. [*Suspension by Teacher; Reports; Conferences; Referrals*]

(a) A teacher may suspend any pupil from the teacher's class, for any of the acts enumerated in Section 48900, for the day of the suspension and the day following. The teacher shall immediately report the suspension to the principal of the school and send the pupil to the principal or the principal's designee for appropriate action. If that action requires the continued presence of the pupil at the school site, the pupil shall be under appropriate supervision, as defined in policies and related regulations adopted by the governing board of the school district. As soon as possible, the teacher shall ask the parent or guardian of the pupil to attend a parent-teacher conference regarding the suspension. Whenever practicable, a school counselor or a school psychologist shall attend the conference. A school administrator shall attend the conference if the teacher or the parent or guardian so requests. The pupil shall not be returned to the class from which he or she was suspended, during the period of the suspension, without the concurrence of the teacher of the class and the principal.

(b) A pupil suspended from a class shall not be placed in another regular class during the period of suspension. However, if the pupil is assigned to more than one class per day, this subdivision shall apply only to other regular classes scheduled at the same time as the class from which the pupil was suspended.

(c) A teacher may also refer a pupil, for any of the acts enumerated in Section 48900, to the principal or the principal's designee for consideration of a suspension from school.

48911. [*Suspension by Principal, Principal's Designee, or Superintendent*]

(a) The principal of the school, the principal's designee, or the superintendent of schools may suspend a pupil from the school for any of the reasons enumerated in Section 48900, and pursuant to Section 48900.5, for no more than five consecutive schooldays.

(b) Suspension by the principal, the principal's designee, or the superintendent shall be preceded by an informal conference conducted by the principal or the principal's designee or the superintendent of schools between the pupil and, whenever practicable, the teacher or supervisor or school employee who referred the pupil to the principal or the principal's designee or the superintendent of schools. At the conference the pupil shall be informed of the reason for the disciplinary action and the evidence against him or her and shall be given the opportunity to present his or her version and evidence in his or her defense.

(c) A principal or the principal's designee or the superintendent of schools may suspend a pupil without affording the pupil an opportunity for a conference only if the principal or the principal's designee or the superintendent of schools determines that an emergency situation exists. "Emergency situation," as used in this article, means a situation determined by the principal, the principal's designee, or the superintendent to constitute a clear and present danger to the lives, safety, or health of pupils or school personnel. If a pupil is suspended without a conference prior to suspension, both the parent and the pupil shall be notified of the pupil's right to a conference, and the pupil's right to return to school for the purpose of a conference. The conference shall be held within two schooldays, unless the pupil waives this right or is physically unable to attend for any reason, including, but not limited to, incarceration or hospitalization. The conference shall then be held as soon as the pupil is physically able to return to school for the conference.

(d) At the time of suspension, a school employee shall make a reasonable effort to contact the pupil's parent or guardian in person or by telephone. Whenever a pupil is suspended from school, the parent or guardian shall be notified in writing of the suspension.

(e) A school employee shall report the suspension of the pupil, including the cause therefor, to the governing board of the school district or to the district superintendent in accordance with the regulations of the governing board.

(f) The parent or guardian of any pupil shall respond without delay to any request from school officials to attend a conference regarding his or her child's behavior.

No penalties may be imposed on a pupil for failure of the pupil's parent or guardian to attend a conference with school officials. Reinstatement of the suspended pupil shall not be contingent upon attendance by the pupil's parent or guardian at such conference.

(g) In a case where expulsion from any school or suspension for the balance of the semester from continuation school is being processed by the governing board, the school district superintendent or other person designated by the superintendent in writing may extend the suspension until such time as the governing board has rendered a decision in the action. However, an extension may be granted only if the superintendent or the superintendent's designee has determined, following a meeting in which the pupil and the pupil's parent or guardian are invited to participate, that the presence of the pupil at the school or in an alternative school placement would cause a danger to persons or property or a threat of disrupting the instructional process. If the pupil or the pupil's parent or guardian has requested a meeting to challenge the original suspension pursuant to Section 48914, the purpose of the meeting shall be to decide upon the extension of the suspension order under this section and may be held in conjunction with the initial meeting on the merits of the suspension.

(h) For the purposes of this section, a "principal's designee" is any one or more administrators at the school site specifically designated by the principal, in writing, to assist with disciplinary procedures.

In the event that there is not an administrator in addition to the principal at the school site, a certificated person at the school site may be specifically designated by the principal, in writing, as a "principal's designee," to assist with disciplinary procedures. The principal may designate only one such person at a time as the principal's primary designee for the school year.

An additional person meeting the requirements of this subdivision may be designated by the principal, in writing, to act for the purposes of this article when both the principal and the principal's primary designee are absent from the school site. The name of the person, and the names of any person or persons designated as "principal's designee," shall be on file in the principal's office.

"Any group of students may organize a student body association within the public schools with the approval and subject to the control and regulation of the governing board of the school district."

48930. [*Purpose and Privileges of Student Body Organization*] Any group of students may organize a student body association within the public schools with the approval and subject to the control and regulation of the governing board of the school district. Any such organization shall have as its purpose the conduct of activities on behalf of the students approved by the school authorities and not in conflict with the authority and responsibility of the public school officials. Any student body organization may be granted the use of school premises and properties without charge subject to such regulations as may be established by the governing board of the school district.

49000. [*Legislative Finding and Declaration (Regarding Corporal Punishment)*] The Legislature finds and declares that the protection against corporal punishment, which extends to other citizens in other walks of life, should include children while they are under the control of the public schools. Chil-

dren of school age are at the most vulnerable and impressionable period of their lives and it is wholly reasonable that the safeguards to the integrity and sanctity of their bodies should be, at this tender age, at least equal to that afforded to other citizens.

49001. [*Prohibition of Corporal Punishment of Pupils*]

(a) For the purposes of this section "corporal punishment" means the willful infliction of, or willfully causing the infliction of, physical pain on a pupil. An amount of force that is reasonable and necessary for a person employed by or engaged in a public school to quell a disturbance threatening physical injury to persons or damage to property, for purposes of self-defense, or to obtain possession of weapons or other dangerous objects within the control of the pupil, is not and shall not be construed to be corporal punishment within the meaning and intent of this section. Physical pain or discomfort caused by athletic competition or other such recreational activity, voluntarily engaged in by the pupil, is not and shall not be construed to be corporal punishment within the meaning and intent of this section.

(b) No person employed by or engaged in a public school shall inflict, or cause to be inflicted, corporal punishment upon a pupil. Every resolution, bylaw, rule, ordinance, or other act or authority permitting or authorizing the infliction of corporal punishment upon a pupil attending a public school is void and unenforceable.

EDUCATIONAL ROLE AND RESPONSIBILITIES OF THE SCHOOL

Promotion of Knowledge of Constitutional Government

Characteristics of constitutional democracy. By the use of a written constitution and the separation of powers, a constitutional democracy provides for the responsible use of power. This type of government assumes that the law can change to meet the needs of a changing society but that the basic structure and processes of government, tested by time, should be changed only after careful scrutiny. Change should occur only to enhance, not restrict, the fundamental purpose of freedom for all citizens under the law. Because this system of government is complex, the careful study of its processes rather than its form alone is essential for an accurate understanding of its worth.

Constitutional government relies for its success on the participation of a large number of enlightened and mature citizens, responsible political leadership, a responsible opposition, and open processes that allow groups and individuals to exercise their influence and to state their views freely. Such a government is both limited and open. It is responsive to change but rests on stable social and political foundations. Constitutional government encourages and thrives on individual and group diversity, at the same time requiring self-restraint and adherence to the processes that allow diversity to thrive.

The process of problem solving and decision making in a constitutional democracy differs from the process followed in totalitarian systems of government. Instead of the dictation of policy by a single authority or a self-chosen group of superiors, which is the practice of totalitarian regimes, constitutional democracy requires popular consent in elections and decisions by a variety of persons in various branches and at various levels of government.

In a constitutional democracy great value is placed on equal rights and fair procedures. Students should understand the processes, the principles of freedom and diversity, and the complexity that are hallmarks of constitutional government. Students should especially understand that, as in any other political system, constitutional government never attains its ideals perfectly. Due process of law, freedom of speech, protection of property rights, and rational consent by open-minded voters in free elections are only approximated. The success of the constitutional system can be gauged only by estimating carefully whether the system is moving away from or toward the realization of its ideals.

Important elements of constitutional democracy. Elements important to the vitality of a constitutional democracy are the following:

- *Rule of law* (U.S. Constitution). The rule of law is a means of settling disputes between government and citizen and among citizens without resort to violence. It substitutes peaceful, predictable, and stable means for unpredictable, potentially disruptive alternatives for enforcing rules and adjudicating differences; that is, the use of arbitrary and self-determined force. The rule of law is expressed in the Constitution, statutes, and the decisions of an independent judiciary.

  The rule of law makes certain that consistent procedures are followed in society's quest for just solutions to disputes, conflicting claims, and enforcement of the rules of a democratic system of government. That wrongs will be punished lawfully is assumed. What is also assumed is that the application of the law will be obeyed while the right to seek to change the law remains undiminished.

- *Due process of law* (U.S. Constitution, amendments IV, V, VI, and XIV). Due process of law is the open and consistent application of procedures guaranteeing that persons will be treated fairly when confronted by persons in authority. Due process prohibits harassment or physical abuse by those in authority, and it requires restraint by those who administer the law.

  People have the right to be informed explicitly of the charges made against them and to be given notice and a fair hearing. Evidence must be gathered by lawful means and must be sufficiently persuasive to establish guilt. Accusers must be present to support the charges against the accused, who together with counsel has by right the opportunity to cross-examine the accusers and to respond to the charges. People cannot be compelled to be witnesses against themselves; their statements must be examined for signs of coercion.

  Once a jury of fellow citizens or a judge has determined a person's innocence, that person cannot be subjected to a continuing series of trials. If there is a reasonable doubt about a person's guilt, he or she must go free. Due process is rooted in a respect for the fundamental dignity of each person and the realization that respect for the law is assured only when it is administered fairly.

- *Representation and consent of the governed* (U.S. Constitution, articles I and II; amendments I, XIV, XV, XIX, and XXVI). Every citizen has a constitutional right to participate in and be represented in the formulation and change of public policies. Voting in elections is only one mode of participation. Citizens communicate their views by (a) petitioning the government; or (b) exercising influence in lawful ways, including association with political parties and organized groups. Government officials have the duty to listen to diverse views.

  The consent of the governed does not require agreement with every policy and act of public officials. In the most fundamental sense, consent signifies agreement on the basic principles and processes of government; on the grant of authority, through the electoral process, for the people's representatives to govern; and on the protection of the right of those who disagree to attempt to change policy by constitutional means.

- *Freedom of expression* (U.S. Constitution, amendments I and XIV). The right to express one's views, whether political, ethical, artistic, or other, is a basic constitutional guarantee. Also basic is the right to receive the views expressed by others and to engage in controversy while respecting the right of others to express their views.

  Limitations on freedom of expression are recognized in all free societies, but the reasons for limitation must be compelling. Permissible limitations exist on the time, place, and manner of expression and communication (as found, for example, in cases dealing with libel, slander, obscen-

ity, and fraud). Limitation is also required when a purpose exists to incite to violence or other unlawful activity.

The benefits of free expression accrue to each person who is communicating his or her views to others, to those who listen, and to government itself. Individuals who speak in the public forum are exercising a valued personal right, the right to project their voices to others in admonition, praise, appreciation, or disapproval. Those who listen may learn as they do so; and those in government benefit because debate, criticism, and the challenge of ideas may ferret out inefficiency and dishonesty and encourage responsiveness to public wishes.

- *Freedom of conscience* (U.S. Constitution, amendments I and XIV). The right to hold beliefs of any kind, whether religious, ethical, or political, is another basic constitutional right. Although persons may be persuaded or convinced to change their beliefs, they may not be coerced either to believe a certain thing or to surrender their beliefs. The constitutional guarantee of freedom of conscience ensures that one can participate in government and society by making his or her conscience known.

  A person may associate with groups that share his or her beliefs or refuse to participate when refusal is within the law or when the actions of the group are contrary to the individual's conscientiously held beliefs. Freedom of conscience is associated historically with freedom to adopt one's own religious or ethical beliefs and to practice them free from coercion. The centrality of the concept of conscience to human dignity accounts for its vitality as a force in the growth of other freedoms.

- *Equality* (U.S. Constitution, Article V; amendments I, XIV, XV, and XIX). Implicit in the idea of equality is the equal claim of each person to the right to develop his or her potential as a human being free from arbitrary distinctions and unfair discrimination. Each person has the right to participate equally in government and to be treated by those in authority without bias and restriction because of race, religion, sex, ethnic origin, or nationality. These factors should not be determinative in making decisions if equal protection is to be achieved. The law must be applied equally to all persons.

  Although individual differences exist that society must recognize, estimates of a person's worth must not be based on racial, religious, or ethnic grounds. Among the rights protected by law are equal opportunities for employment; the right not to be discriminated against in housing and public accommodations; equal protection of voting rights; and fair treatment before the law.

- *Right to property and privacy* (U.S. Constitution, amendments V, VI, XI, and XIV). People have the right to acquire possessions of their own, including living space. The Constitution guarantees that possessions and domiciles will be free from seizure or invasion by government except for lawful purposes. The right to acquire property is something more than the idle accumulation of material goods; it implies the application of skill and energy and concern for the surrounding environment in the process of acquisition. The right is associated with the benefits of having around oneself the means for fulfilling one's constructive potential as a human being and for enhancing one's sense of individuality while providing for the good of others. Whether aided or not by the acquisition of property, privacy signifies freedom from unwanted intrusion

"Implicit in the idea of equality is the equal claim of each person to the right to develop his or her potential as a human being free from arbitrary distinctions and unfair discrimination. Each person has the right to participate equally in government and to be treated by those in authority without bias and restriction because of race, religion, sex, ethnic origin, or nationality."

so that opportunities are provided for thought, individual expression, and repose.

- *Respect for diversity* (U.S. Constitution, amendments I, XIV, and XIX). Respect for diversity entails an appreciation of the benefit to the individual, the government, and society as a whole where a wide variety of public and private voices, interests, and views are present. Cultural diversity can enrich the lives of those living in groups and those sharing common views by encouraging group identity. Such diversity enriches the lives of others because it can broaden their horizons and build respect for variety in a free society.

  Cultural diversity also limits pressures for conformity and the dominance of one group in government. A variety of sources of influence ensures that many ideas, viewpoints, and interests are brought to bear on the formulation of public policy. Cultural diversity assumes a shared recognition of and respect for the underlying processes of constitutional government and democratic rules that themselves ensure that diversity can flourish and be expressed.

- *Right to oppose* (U.S. Constitution, articles I, II, and III; amendments I and XIV). The right to oppose is the right to express oneself in a lawful manner as an individual or as a member of a group. The right is reflected in the tripartite form of the federal government; the functions of each branch and level of government are divided so that power is not unduly concentrated.

  The critical role of the opposition in constitutional government is to monitor those in office, thus encouraging in them alertness to diverse views and holding them responsible for fairness, efficiency, and honesty. Those in opposition may lawfully seek power in government and, if successful, they may be opposed by those whom they succeed. Where organized opposition to those in power is forbidden, political absolutism can emerge, governmental efficiency suffers, and individual views cannot be expressed effectively.

"The classroom teacher should work together with the students to provide a democratic environment for learning."

Provision of Democratic School Environment

Democratic environment in the classroom. The classroom teacher should work together with the students to provide a democratic environment for learning. Suggested approaches include the following:

- *Critical inquiry.* The teacher should encourage critical inquiry and thoughtful judgment about the facts, values, principles, and processes of constitutional democracy. Students should develop the ability to gather, evaluate, interpret, communicate, and apply knowledge of governmental processes, both historical and contemporary, that have meaning for their lives and the lives of others. They should develop their abilities to distinguish critically between truth and the appearance of truth in political life.

  While becoming aware that political practice may fall short of ideals, students should consider carefully the democratic means by which those ideals may more nearly become approximated. The formal description of government should be secondary to observation of and learning about political processes and ideals in action. Indoctrination, the imposition of a partisan or biased viewpoint, is to be avoided; objective discussion of the values of our society in which critical inquiry can take place freely is to be encouraged. When appropriate, consideration of such matters as the pursuit of truth and value in political life should be placed in a setting in which the American system of government is compared with the systems of other nations so that students can view the American system in a world setting.

- *Free expression.* Students should learn how free expression benefits the individ-

ual citizen and society. They should also learn to perceive the damage to individuals and society of ridicule, personal invective, intemperance of language and behavior, and expressions of prejudice based on value differences, religion, race, or nationality. Freedom of expression is not freedom to disrupt; it is the right to develop and communicate ideas and beliefs with vigor, commitment, and an open mind. But attention must always be paid to the persuasiveness of one's arguments.

Just as a chairperson at a meeting, the teacher should direct the flow of debate and discussion and maintain and clarify rules of order, but he or she should not suppress students' views or impede the efforts of students to learn to express their views. To learn democratic processes and to develop personal growth, students should be encouraged to express themselves freely in the classroom.

Development of the ability to communicate effectively is part of learning. In accord with democratic values, each student should respect the rights of others when he or she expresses views and should recognize the right of others to express their views.

- *Fair application of rules.* Fairness in the application of rules is the beginning of respect for the law. Students should understand the reasons for the existence of rules; that is, rules exist to protect the students' own rights and the rights of others and to promote learning. Students should learn to appreciate more fully the need for fair rules in society at large.

  When appropriate, students should participate in making classroom rules as an exercise in free government. The rules governing behavior in the classroom should be stated clearly by the teacher. The rules should be applied consistently, predictably, and fairly. The reasonableness of the rules and the democratic means of changing and adjusting them should be discussed openly. When there is an infraction of a rule, those in charge should be certain that the infraction took place, that the student involved is at fault, and that all aspects of the situation, including motive, are taken into account.

- *Property and privacy.* Teachers and students should discuss property and privacy as they relate to human dignity and individuality. Students should study the personal and constitutional implications of freedom from unwarranted intrusion on their right and the right of others to own property and to enjoy repose without interference. They should become aware of the various ways of acquiring property honestly and using it responsibly. They should also be aware that the development of personal skill and the responsible use of one's energy is in itself a possession essential to self-esteem and constructive participation in society. The destruction of personal or public property by, for example, theft and vandalism should be presented in relation to personal and public consequences; that is, personal economic loss, waste, and the serious undermining of personal and community security and well-being.

- *Participation.* Participation is present in students' deliberations on rules and values, in their expressions of ideas and views, and in the act of learning itself. When professional judgment does not indicate otherwise, students should be encouraged to participate in the selection of learning activities and the introduction of materials and projects. In this way they are given a meaningful part in formulating class policy. The rationale for the policies adopted should be made clear to the students.

Democratic environment throughout the school. Suggested approaches to providing a democratic environment throughout the school include the following:

- *School environment.* Provided that the ultimate responsibility of the school district governing board and the school administrators for the conduct of school affairs is recognized, the structures and activities of the schools should incorporate constitutional principles and democratic processes.

"School rules should be stated clearly and applied consistently and equitably. The rules should be disseminated carefully, and every effort should be made to ensure that the rationale for the rules is understood."

All school personnel, not just classroom teachers, should cultivate fair and open procedures and democratic learning. Their own attitudes and behavior, empathy with students, fair standards of evaluation, and calm and judicious administration of discipline may be more eloquent lessons in democratic living than any number of oral or written exercises can provide. Correspondingly, the student has a responsibility to make a conscientious effort to understand the obligations of school personnel.

- *Fair and open enforcement of rules.* School rules should be stated clearly and applied consistently and equitably. The rules should be disseminated carefully, and every effort should be made to ensure that the rationale for the rules is understood. If a rule is breached, evidence of the infraction should be gathered carefully. Allowance should, however, be made for errors in perception by the one who observed the behavior in question.

  Accused pupils should be given notice and be informed of any charges against them. They should be allowed to respond and present their own evidence. Students should not be harassed. If sanctions are forthcoming, school personnel should avoid bias or the appearance of bias. Sanctions should be applied equally in like situations, and they should be appropriate to the offense. Equally, students should understand that they are responsible for their conduct and that they should not interfere with the person, property, or educational rights of others.

- *Representation and participation.* Students should be given the right to elect a representative student government and to have access to school authorities by other lawful means, such as petition. Participation in school government should increase as students move upward through the grades. Although student government, properly designed, should be the principal mode of representation, various other authorized groups should be encouraged. In no case, however, may membership be restricted on grounds of race, religion, or nationality.

  Student government should be designed for responsive and diverse representation. When appropriate, student representatives should be involved in the consideration of matters that affect their education and their lives in the school setting. Student representatives should be asked to represent the views of students in meetings with administrators and teachers when matters do not fall directly within the boundaries of professional expertise.

- *Free expression.* Free expression in the school at large contributes as much to learning about democratic processes as does classroom activity. The canons of courtesy and self-restraint expected in the classroom should govern expression outside the classroom. The rights of others should be respected, and disruption of school programs should be prohibited. Deeply held views should not, however, be disregarded or inhibited by those in authority.

  So that the exchange of ideas and the exercise of rational persuasion can be encouraged, settings should be provided where matters that are not restricted to school affairs can be discussed openly. Time and place should be regulated, and the right of all to express themselves should be assured. Rules against libel, slander, expressions of racial prejudice, obscenity, and incitement to unlawful activity or disruption of school activities should govern. In all instances the rationale for the restrictions should be made clear to the students.

LEGAL RIGHTS AND RESPONSIBILITIES OF SCHOOL PERSONNEL

The First Amendment to the United States Constitution states that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . . ." In *Abington School District* v. *Schempp*, U.S. Supreme Court Justice Clark delivered the majority opinion. Justices Brennan and Goldberg wrote concurring opinions. Justice Clark (on opposition or hostility to religion; the study of comparative religion and the history of religion; and the study of the Bible and religion) stated the following:

> . . . Of course . . . the state may not establish a "religion of secularism" in the sense of affirmative opposing or showing hostility to religion, thus "preferring those who believe in no religion over those who do believe" (*Zorach* v. *Clauson*). . . . In addition, it might well be said that one's education is not complete without a study of comparative religion or the history of religion and its relationship to the advancement of civilization. It certainly may be said that the Bible is worthy of study for its literary and historic qualities. Nothing that we have said here indicates that such study of the Bible or of religion, when presented objectively as part of a secular program of education, may not be effected consistent with the First Amendment.

Justice Brennan (on teaching about the Bible; about the differences between religious sects; about religion and the social sciences; and about religion and the humanities) wrote as follows:

> The holding of the Court today plainly does not foreclose teaching *about* the Holy Scriptures or about the differences between religious sects in classes of literature or history. Indeed, whether or not the Bible is involved, it would be impossible to teach meaningfully many subjects in the social sciences or the humanities without some mention of religion. To what extent, and at what points in the curriculum, religious materials should be cited are matters which the courts ought to entrust very largely to the experienced officials who superintend our nation's public schools. They are experts in such matters, and we are not.

Justice Goldberg (on passive or active hostility to religion and religious teachings; on legal, political, and personal values; and on teaching about religion) stated the following:

> It is said, and I agree, that the attitude of the state toward religion must be one of neutrality. But untutored devotion to the concept of neutrality can lead to invocation or approval of results which partake not simply of that noninterference and noninvolvement with the religious which the Constitution commands, but of a brooding and pervasive devotion to the secular and a passive, or even active, hostility to the religious. Such results are not only not compelled by the Constitution, but, it seems to me, are prohibited by it.
>
> Neither the state nor this Court can or should ignore the significance of the fact that a vast portion of our people believe in and worship God and that many of our legal, political, and personal values derive historically from religious teachings. Government must inevitably take cognizance of the existence of religion and, indeed, under certain circum-

stances the First Amendment may require that it do so. And it seems clear to me from the opinions in the present and past cases that the Court would recognize the propriety of providing military chaplains and of the teaching *about* religion, as distinguished from the teaching *of* religion, in the public schools.

Article I, Section 4, of the Constitution of the State of California deals with teaching about religion in the public schools and reads, in part, as follows:

> The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be guaranteed in this state.

Article IX, Section 8, of the California Constitution reads as follows:

> No public money shall ever be appropriated for the support of any sectarian or denominational school, or any school not under the exclusive control of the officers of the public schools; nor shall any sectarian or denominational doctrine be taught, or instruction thereon be permitted, directly or indirectly, in any of the common schools of this state.

The *Education Code* regulates the teaching about religion in California public schools as follows:

> 46014. [*Regulations Regarding Absences for Religious Purposes*] Pupils, with the written consent of their parents or guardians, may be excused from school in order to participate in religious exercises or to receive moral and religious instruction at their respective places of worship or at other suitable place or places away from school property designated by the religious group, church, or denomination, which shall be in addition and supplementary to the instruction in manners and morals required elsewhere in this code. Such absence shall not be deemed absence in computing average daily attendance, if all of the following conditions are complied with:
>
> (a) The governing board of the district of attendance, in its discretion, shall first adopt a resolution permitting pupils to be absent from school for such exercises or instruction.
> (b) The governing board shall adopt regulations governing the attendance of pupils at such exercises or instruction and the reporting thereof.
> (c) Each pupil so excused shall attend school at least the minimum school day for his or her grade for elementary schools, and as provided by the relevant provisions of the rules and regulations of the State Board of Education for secondary schools.
> (d) No pupil shall be excused from school for such purpose on more than four days per school month.
>
> It is hereby declared to be the intent of the Legislature that this section shall be permissive only.
>
> 51511. [*Religious Matters Properly Included in Courses of Study*] Nothing in this code shall be construed to prevent, or exclude from the public schools, references to religion or references to or the use of religious literature, art, or music or other things having a religious significance when such references or uses do not constitute instruction in religious principles or aid to any religious sect, church, creed, or sectarian purpose and when such references or uses are incidental to or illustrative of matters properly included in the course of study.

Opinion 53-266 (June 10, 1955) from the Office of the Attorney General of California states that readings from recognized versions of the Bible may not be read in schools for religious purposes, although the Bible may be used for reference, historical, or other nonreligious purposes. The opinion reads, in part, as follows:

> Although direct instruction in religious principles may not be given in the public schools, it does not follow that every reference to anything religious is prohibited. A course in the history of California which did not describe the early Catholic missions is unthinkable; Father Junipero Serra is justly regarded as one of the great figures in our history and in fact his statue is one of two representing California in the Hall of Fame at the nation's capitol. A high school course in European history could not properly omit reference to the great religious controversies of the middle ages, such as the struggle over lay investiture; and such a course would also devote substantial time to a study of the Protestant Reformation. Instruction concerning the Constitution would similarly involve study of the history of the struggle for religious freedom in colonial times. Religious subjects have many times been used in art and music; Da Vinci's *Last Supper*, Michelangelo's *Moses*, the Winged

Victory of Samothrace, an Indian Totem Pole—all have religious significance, and yet all are appropriate for study in a public school class on art. The playing of passages from Beethoven's *Missa Solemnis* in a music class would not violate constitutional restrictions any more than would the playing of Wagner's *The Valkyrie*.

Even the Bible itself need not be excluded. It has exerted, and still exerts, a great influence on English and American literature. Not only may it be discussed in a general way in an appropriate literature class, but specific passages, because of their eloquence or poetic beauty, may be used for special study, such as the Song of Ruth or Paul's great tribute to Charity.

No doubt the indirect use of religious subjects in classes in art, music, literature, and history could be carried to extremes which would offend constitutional guarantees. Properly presented, however, such materials need not involve the promotion of religion. Use of the Bible in the public schools may be proper even though public school use of the Bible *for religious purposes* is prohibited by our constitutions.

Opinion 59-296 (March 7, 1960) from the Office of the Attorney General of California states that books may be purchased without regard to sectarian or denominational character and that books of a sectarian or denominational character are not to be used for advocating the precepts of a specific religion or sect. The opinion reads, in part, as follows:

> Although the subject matter of books purchased for school libraries is not reviewable on the ground that the books are or are not sectarian or denominational in character, every caution should be exercised to make certain that books of sectarian or denominational character are not used as a basis for advocating or teaching the precepts of a specific religion or sect. Care is also indicated to prevent books of sectarian or denominational character from constituting an inordinate percent of the total library and thus altering the very character of the library itself.

EDUCATIONAL RESPONSIBILITIES OF SCHOOL PERSONNEL

Teaching About Religion in California

The California State Board of Education stated in 1963 that "our schools should have no hesitancy in teaching about religion. We urge our teachers to make clear the contributions of religion to our civilization. . . ."

Teaching About and Practicing Religion

A legal and logical distinction exists between teaching about religion and practicing religion. Public schools may not sponsor the practice of religion; but it is legally permissible and educationally responsible to ensure that study about religion is carried on in the public schools.

Teaching About and Instructing in Religion

To teach about religion is not to instruct in religion. Teaching about religion embraces the study of various religions; appreciation of the nature and variety of religious experience historically and currently; information on past and present sources, views, and behavior of religious persons or groups; and the influence of religion on cultures and civilizations. Instruction in religion, by contrast, is to seek acceptance of and commitment to a particular religion, including a nonreligion, such as secularism.

Freedom to instruct in religion is a treasured part of the American heritage. Instruction is carried out in the home and in the churches. Although instruction in religion may help a person to achieve a deeply meaningful life, it is prohibited in the public schools. Teaching about religion is not, however, prohibited.

"Students should comprehend the religious ideas that have helped to shape Western and Eastern cultures and civilizations; they should become aware of the influence of religion on life-styles (work, prayer, devotion, ritual, worship, meditation) and on the development of ideas."

The only commitment intrinsic to teaching about religion is a commitment to learn, to study, to seek to understand, and to communicate. To learn about religion is to understand religious views and values, to recognize the immense importance of religion to the American heritage, and to realize that religion continues to permeate both Western and Eastern cultures.

School Personnel to Ensure Teaching About Religion

School authorities should see that students are taught about religion and that teachers are adequately prepared to teach it. Teaching about religion can take place in an entirely separate course, in an appropriate part of another course, or in an enrichment program. School personnel are obliged to help students develop an informal understanding and appreciation of the role of religion in the lives of Americans and the people of other nations. Teachers should seek to encourage students to become aware of their richly diverse and complex religious traditions and to examine new forms of religious expression and insight.

Subject Matter

The subject matter areas mentioned here are only suggested; the list is in no sense exhaustive.

Religion in America. Study about religion in America is fundamental to understanding and appreciating the American heritage. America is a land of many races, cultures, languages, and religions. Students should learn about the contributions of religion to America. They should study about principal religious figures, groups, issues, and trends; fundamental beliefs contributing to the growth of democracy and the democratic process; the background of the First Amendment to the U.S. Constitution; the problem of religious persecution; and the value of religious freedom. They should recognize and seek to understand the diversity of religious expressions that have helped to shape this country; they should appreciate problems of conscience in relation to historical and contemporary issues of religious freedom; and they should become aware of

"A course in the history of California which did not describe the early Catholic missions is unthinkable."

the historical, cultural, and social conditions that contribute to religious pluralism and diversity.

World religions. An educational imperative is to seek to understand ourselves, others, and the world. Religion has been a decisive factor in the development of civilizations. Students should comprehend the religious ideas that have helped to shape Western and Eastern cultures and civilizations; they should become aware of the influence of religion on life-styles (work, prayer, devotion, ritual, worship, meditation) and on the development of ideas.

The teacher should assist students to understand religious views that can be quite unfamiliar in the United States. Care should be taken, however, to avoid emphasizing unusual religions or religious practices so that respect for religion will not be undermined. Of importance in Western religious thought and practice are the various formative periods of Western civilization. To become educated in Western religious thought and practice, students should be exposed to the major religious heritages of Judaism, Christianity, and Islam. Similarly, students should study the major Asian religions.

Classical religious texts. The study of representative portions of the classical sources of major religious traditions is appropriate in public education. These religious documents have contributed to the major cultures, to the personal lives of countless persons, and to self-understanding. A knowledge of biblical literature, for example, is necessary to understand Western literature, history, and the values underlying the United States and many of its laws. In accord with appropriate grade levels, the study of biblical sources should include an understanding of fundamental approaches to the examination of the texts; an awareness of the historical, cultural, and geographical context and the languages; a scrutiny of the

literary forms and images; and a consideration of themes, events, basic ideas, and values.

Development of courses. Other courses or parts of present courses can be developed in the study about religion. Examples of courses that can be developed are Religion and Society, a study of the influence of religious views and values on the social, economic, and political aspects of society; Religion and the Arts, a study of the influence of religion on art, music, literature, dance, architecture, and sculpture; and Human Religious Experience, a study of the effects of religion on the lives of men and women.

Guidelines for Teaching About Religion

Religion should be discussed with sensitivity. Conflicting points of view are to be expected and considered; open discussion is a proper method for searching for truth in the study about religion; religious indoctrination is to be avoided.

Need for factual accuracy. The need for factual accuracy is paramount in teaching about religion. Careful and balanced examination of sources is requisite for informed judgment. As much as possible, teachers should use primary sources and should encourage students to use them. Secondary sources are useful for overview and clarification. Students should be helped to identify, compare, assess, and communicate ideas and viewpoints. Teachers should be thorough in studying the sources and related materials; they should also recognize and admit their limited knowledge or understanding in a specific area.

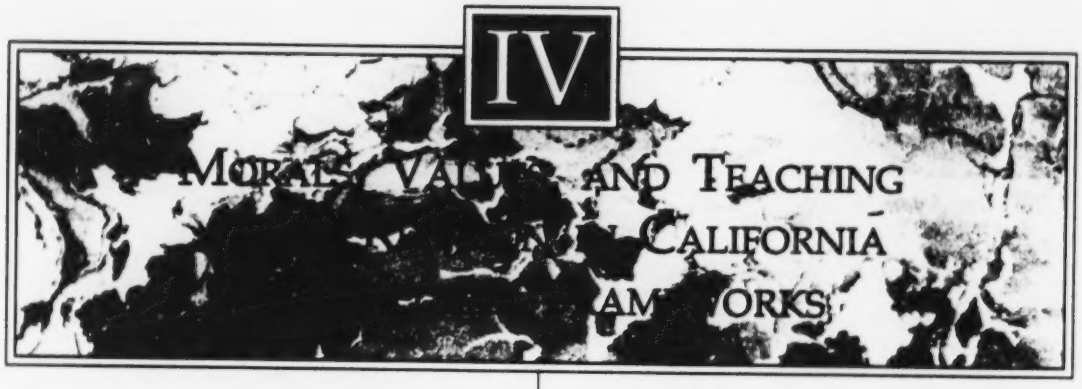
"In teaching about religion, the teacher should be sensitive to the diverse views, levels of sophistication, and critical ability of students, parents, and members of the community."

Need for empathy. Teachers should also seek to understand the points of view of different religions. They should empathize sufficiently with the view of an adherent to a particular religion to grasp the significance of that view for the one who holds it. This empathy helps one to understand why the view is held and why it is valuable in the life of the one who holds it. One must first seek to come to an understanding of a religion within its own historical context rather than solely from one's own viewpoint.

Problem of oversimplification. In teaching about religion one must avoid the tendency to convey a false impression of the subject by oversimplifying it. Teachers should explain the extent to which a particular religion or religious view is to be considered in class. Students should be made fully aware of the limitations imposed on their study about and, consequently, their understanding of a religion. Further, the diversity within religions as well as among religions should receive careful attention. In addition, the teacher should state why certain sources, selections, historical periods, themes, and issues have been selected for study.

Need for sensitivity. In teaching about religion, the teacher should be sensitive to the diverse views, levels of sophistication, and critical ability of students, parents, and members of the community. School administrators and teachers should be sensitive to the possible problems involved, such as misunderstandings and misconceptions.

Avoidance of ridicule and prejudice. Ridicule and prejudiced statements must be avoided in the study of religion and religious practices, whether from a historical or contemporary viewpoint. Ridicule is rooted in an antieducational attitude; it is the product of failing to be sensitive or empathic. It results from a callous disregard for the views of another person or group.



Students need opportunities to ponder ethical issues in all curricula—to gather and evaluate data, arrive at conclusions, and act in responsible ways. They need to understand the potential implications of human actions and interactions for society as a whole as well as the consequences of various courses of action in given situations. Therefore, teachers, textbook authors, and developers of curricula should deal with ethical issues. The study of ethics needs to be an integral part of all curricula. However, instructional time may not always permit an in-depth exploration of ethical matters; in some cases, calling attention to and defining the problems involved may be sufficient.

To assist the schools and those developing instructional materials, the California Department of Education has produced a variety of publications, and many of them contain material pertaining to moral and civic education and teaching about religion. Foremost among these publications are the curriculum frameworks; these are formally adopted by the State Board of Education, and they form the philosophical base for instruction in a given subject area. Frameworks serve three major purposes: (1) they are policy statements of the State Board of Education for instruction in a particular subject area in the public schools, kindergarten through grade twelve; (2) they are used as guides for districts in designing curricula and developing courses of study; and (3) they are the basis for the criteria used in adopting instructional materials for the elementary schools. Pertinent sections of specific frameworks are highlighted in the following sections of this chapter.

In addition to frameworks, the Department of Education also produces a number of other documents for educators: model curriculum standards (high school level, adopted by the State Board of Education, as required by SB 813), model curriculum guides (elementary level, optional), and other guides and recommendations to *carry out* the philosophy in the frameworks; handbooks and suggestions to *implement* the philosophy; and assessment instruments and activities to *determine the effectiveness* of instructional programs. Many of these documents also have content that relates to moral and civic education and teaching about religion. For example, the *Model Curriculum Standards, Grades Nine Through Twelve*,[1] in its Overview and Introduction, states:

> . . .[O]ur country was founded on the premise that an educated citizenry is essential to a healthy, functioning democracy and must have basic understanding of such things as:
>
> - The principles of democracy
> - The role of an informed citizenry
> - A sense of a shared past that has direct relevance and importance in the present
> - A sense of shared values and ethical principles that contribute to the common good (in contrast to the kind of ethical relativism that says everything is as good as everything else)
> - The need to be able to make informed judgments and to analyze information thoughtfully and critically

In addition to noting the relevance of certain frameworks and other curricular

[1] *Model Curriculum Standards, Grades Nine Through Twelve*. Sacramento: California Department of Education, 1985. (Available for $5.50, plus sales tax for California residents. See page 34 for information on ordering.)

documents, educators should incorporate principles of moral and ethical behavior and civic education in all areas of the curriculum and exemplify them in the conduct of activities in the classroom, on campus, and in the community. Toward these ends, educators may follow these guidelines in *all* subject areas:

1. The classroom climate should be one of honesty and mutual trust.
2. Individual and minority viewpoints should be considered. Care should be taken that strong attitudes or differences in opinion on ethical matters are neither expressed nor interpreted as personal attacks.
3. One should use divergent and open-ended questions when eliciting discussion on ethical issues. When responding to questions, teachers should seek understanding and expansion of students' views and opinions rather than evaluation and closure.
4. Learners should be provided opportunities to practice ethical development on issues that are not personal or threatening to those of different races, ethnic backgrounds, and religions.
5. Learners may be encouraged but should not be pressured to take public positions on ethical issues. Students are often in the process of sorting their own feelings and are not yet committed to particular positions.
6. No grading or evaluation should be assigned on a view or opinion, but grading may be used for facts and research used in the process of arriving at the view or opinion.
7. News articles and advertisements may be useful in teaching students to distinguish between fact and opinion and in helping them learn to make appropriate inferences.
8. Learners should be encouraged to listen to, make responses to, and share thoughts without being required to make immediate, unstudied judgments. Teachers should model this approach in their own behavior.
9. The teacher's personal opinions on an ethical issue should be identified as such. The introduction of the teacher's opinions may inhibit the students from sharing their views freely and openly and may reduce the students' motivation to seek and consider other points of view.
10. Textbooks and other materials should provide information and experiences involving ethical issues.

Specific references to moral and civic education and teaching about religion, as they appear in five of California's curricular frameworks, are highlighted in the following sections. However, teachers are encouraged to secure copies of the complete documents to gain a fuller understanding of the State Board's position regarding the content that should be included in the curriculum for each instructional area.

English–Language Arts Framework for California Public Schools

Kindergarten Through Grade Twelve (1987)[1]
(64 pages, illustrated)

The *English–Language Arts Framework* promotes a systematic meaning-centered literature program for all students to provide our future adults with: (1) a solid body of knowledge derived from a multicultural perspective; (2) experience in confronting important human issues and conflicts; (3) a strong sense of values, including personal, social, and aesthetic values; and (4) the necessary language and thinking skills acquired through frequent and meaningful listening, speaking, reading, and writing. Some of the major issues related to moral and civic education addressed in the framework are presented in the paragraphs that follow.

Essential elements of an English–language arts program. The core literary works identified by a school or district offer students a multicultural perspective from which they can learn about their humanity, their values, and their society. Great literature enables teachers and students to explore and learn from the differences among cultures and times. A strong

[1]See page 33 for information on how to obtain copies of frameworks and other Department of Education publications.

"Adults are sometimes surprised by the richly and subtly developed value systems of children, who, for example, are often better able to handle the grim realities of fairy tales than adults are."

literature program offers the language and literature of many nations and perspectives and of racially, ethnically, and culturally diverse societies.

Effective instruction. An effective English–language arts program introduces students to literature that represents many perspectives, diverse styles and cultures and points of view, classic and contemporary attitudes, and a range of modes from fiction and drama through poetry and essay and speeches. It prepares students for understanding ideas and expressing themselves effectively about important human issues.

Exemplary practices. Adults are sometimes surprised by the richly and subtly developed value systems of children, who, for example, are often better able to handle the grim realities of fairy tales than adults are.

As students learn about major social and political issues, they read and experience a variety of literary genre. Students also develop the capacity to write cogent, clear, and precise prose; and they sharpen their listening and speaking skills in class discussions, panel presentations, and debates on worthwhile issues they are interested in exploring.

Evaluation. The approaches to assessment that teachers use in English–language arts provide many opportunities to involve students in an examination of major social and moral issues.

Implementation. Students today face choices and demands unparalleled in the experiences of most adults. Their need for stable values and appropriate models of adult behavior is often assaulted by the influences of unstable home situations, substance abuse and violence among their peers, and the rapid pace of technology. An effective curriculum in the English–language arts must address their needs, appeal to their interests, and capitalize on their energies as discoverers. The curriculum must become as active and vital as the world at large.

Standards for instructional materials. Coursework in English–language arts must contain a balance of fiction and nonfiction selections that engage students in (1) significant themes that broaden their awareness of their own and others' societies; and (2) our rich and diverse literary heritage, which connects students to political, social, and ethical issues that are central to our society.

Foreign Language Framework for California Public Schools

Kindergarten Through Grade Twelve (1989)
(56 pages)

Three categories of benefits to be derived from the study of foreign languages are listed in the *Foreign Language Framework*: (1) economic; (2) civic and cultural; and (3) intellectual. In the second category, civic and cultural benefits, the framework cites the power that language has to foster improved understanding between peoples of various cultural backgrounds. The goal for developing students who can communicate effectively in at least one foreign language includes "appropriate cultural sensitivity" as a quality to be nurtured in foreign language classes. For example, a student of Japanese might learn that a request from an associate in Japan is rarely refused point-blank but that various cues communicate a polite *no*.

Every student of foreign languages eventually discovers that cultural conventions differ from society to society. Some cultural conventions reflect genuine differences in the hierarchy of values, while others simply conceal a deeper human commonality that transcends place and time. This "cosmopolitanizing" function of studying a foreign language is valuable to a country such as the United States, which was founded on the belief that out of many traditions one nation

could be established (*e pluribus unum*). And the study of foreign languages is especially valuable in California, where a rich diversity of cultural tradition is represented and where one out of four immigrants to the United States eventually settles.

The framework recommends "communication-based" instruction (using the language being learned), a practice that makes such language-embedded cultural values more readily apparent to the student. A foreign language should be taught as the expression of the culture in which the language is spoken. Knowledge of a society's culture is learned through the use of language. Part of learning a new language is learning to recognize differences in world views, customs, beliefs, and social conventions. The language cannot be separated from the culture that gives it life.

History–Social Science Framework for California Public Schools

Kindergarten Through Grade Twelve (1988)
(136 pages, illustrated)

The Introduction lists 17 distinguishing characteristics of the 1988 *History–Social Science Framework*. Seven of these characteristics relate directly to moral and civic education and teaching about religion. They are:

- This framework incorporates a multicultural perspective throughout the history–social science curriculum. It calls on teachers to recognize that the history of community, state, region, nation, and world must reflect the experiences of men and women and of different racial, religious, and ethnic groups.
- This framework emphasizes the importance of the application of ethical understanding and civic virtue to public affairs. The curriculum provides numerous opportunities to discuss the ethical implications of how societies are organized and governed, what the state owes to its citizens, and what citizens owe to the state. Major historical controversies and events offer an appropriate forum for discussing the ethics of political decisions and for reflecting on individual and social responsibility for civic welfare in the world today.
- This framework encourages the development of civic and democratic values as an integral element of good citizenship. From the earliest grades students should learn the kind of behavior that is necessary for the functioning of a democratic society. They should learn how to select leaders and how to resolve disputes rationally. They should learn about the value of due process in dealing with infractions, and they should learn to respect the rights of the minority, even if this minority is only a single, dissenting voice. These democratic values should be taught in the classroom, in the curriculum, and in the daily life of the school.
- This framework supports the frequent study and discussion of the fundamental principles embodied in the United States Constitution and the Bill of Rights. Whether studying United States history or world history, students should be aware of the presence or absence of the rights of the individual, the rights of minorities, the right of the citizen to participate in government, the right to speak or publish freely without governmental coercion, the right to freedom of religion, the right to trial by jury, the right to form trade unions, and other basic democratic rights.
- This framework encourages teachers to present controversial issues honestly and accurately within their historical or contemporary context. History without controversy is not good history, nor is such history as interesting to students as an account that captures the debates of the times. Students should understand that the events in history provoked controversy as do the events reported in today's headlines. Through the study of controversial issues, both in history and in current affairs, students should learn that people in a democratic society have the right to disagree, that different perspectives have to be taken into account, and that judgments should be based on reasonable evidence, not on bias and emotion.
- This framework acknowledges the importance of religion in human history. When studying world history, students must become familiar with the basic ideas of the

"The new nation was founded by immigrants from all parts of the globe and governed by institutions founded on the Judeo-Christian heritage, the ideals of the Enlightenment, and English traditions of self-government."

major religions and the ethical traditions of each time and place. Students are expected to learn about the role of religion in the founding of this country because many of our political institutions have their antecedents in religious beliefs. Students should understand the intense religious passions that have produced fanaticism and war as well as the political arrangements developed (such as separation of church and state) that allow different religious groups to live amicably in a pluralistic society.

- This framework provides opportunities for students' participation in school and community service programs and activities. Teachers are encouraged to have students use the community to gather information regarding public issues and become familiar with individuals and organizations involved in public affairs. Campus and community beautification activities and volunteer service in community facilities such as hospitals and senior citizen or day care centers can provide students with opportunities to develop a commitment to public service and help link students in a positive way to their schools and communities.

Some of the pertinent curricular content presented in the *History–Social Science Framework* is summarized, by grade level, as follows:

***Kindergarten** (Learning and Working Now and Long Ago).* Most children arrive for their first school experience eager to work and learn. Many will be working in groups for the first time. They must learn to share, to take turns, to respect the rights of others, and to take care of themselves and their own possessions. These are learnings that are necessary for good civic behavior in the classroom and in the larger society.

***Grade one** (A Child's Place in Time and Space).* Children develop civic values that are important in a democratic society. The rich fund of literature from other cultures provides opportunities for children to discuss and dramatize these stories, discover their moral teachings, and learn about the culture represented: beliefs, customs, ceremonies, traditions, and social practices.

***Grade two** (People Who Make a Difference).* Children read and listen to biographies of the nation's heroes and those who took risks and opened new opportunities. Through a study of family history, children get a sense of time and an insight into family life, religious practices, and manners and morals of their grandparents and other ancestors.

***Grade three** (Continuity and Change).* Through stories and celebrations of national holidays, children learn the meanings of the holidays and the symbols that provide continuity and a sense of community across time; for example, the American flag, the eagle, Uncle Sam, and the Statue of Liberty. They learn the Pledge of Allegiance and the national songs that express American ideals.

***Grade four** (California: A Changing State).* To bring California history and geography to life for students, teachers should emphasize California's people in all their ethnic, racial, and cultural diversity. Students should learn about the daily lives, adventures, and accomplishments of these people and the cultural traditions and dynamic energy that have formed the state and shaped its varied landscape.

***Grade five** (United States History and Geography: Making a New Nation).* This course focuses on the development of the nation, with emphasis on the period up to 1850. The new nation was founded by immigrants from all parts of the globe and governed by institutions founded on the Judeo-Christian heritage, the ideals of the Enlightenment, and English traditions of self-government. Students should reflect on the ethical content of the nation's principles and

on America's promise to its citizens—the promise of a democratic government in which the rights of the individual are protected by the government, by a free press, and by an informed public.

***Grade six** (World History and Geography: Ancient Civilizations).* Students are introduced to the great ideas of Western civilization. Biblical literature, the civilizations of ancient Greece and Rome, and the major religions and philosophies of early China and India are covered. In considering the debt owed to those who came before us and established the foundations on which modern civilization rests, students are encouraged to ponder the responsibility we owe to those who will come after us.

***Grade seven** (World History and Geography: Medieval and Early Modern Times).* With a time span from approximately A.D. 500 to 1789, this year's study takes students from the fall of Rome to the spread of Islam. The Mayan, Incan, and Aztecan civilizations, including their religions, are examined. Students take a close look at the Renaissance, the Reformation, and the scientific revolution in Europe.

***Grade eight** (United States History and Geography: Growth and Conflict).* Students concentrate on the years from the framing of the Constitution to World War I. Important issues of the time are discussed in their ethical context, especially how personal ethical standards apply to public life. In addition to the Civil War, which is treated as a watershed in American history, some of the issues covered are westward expansion, slavery, the Mexican-American War, treatment of Indians, women's rights, public education, and the rise of industrialization and internationalism.

***Grade nine** (Elective Courses).* Twelve elective course topics are suggested for the ninth grade: (1) Our State in the Twentieth Century; (2) Physical Geography; (3) World Regional Geography; (4) The Humanities; (5) Comparative World Religions; (6) Area Studies: Cultures; (7) Anthropology; (8) Psychology; (9) Sociology; (10) Women in Our History; (11) Ethnic Studies; and (12) Law-Related Education.

***Grade ten** (World History, Culture, and Geography: The Modern World).* In examining modern world history from about 1789 to the present, students learn about imperialism and colonialism in India, the causes and consequences of World War I, totalitarianism in Nazi Germany and Stalinist Russia, and World War II. A study of nationalism introduces students to issues in Asia, Africa, the Middle East, and Latin America.

***Grade eleven** (United States History and Geography: Continuity and Change in the Twentieth Century).* In reviewing the events of the twentieth century, students will learn how the principles of the Constitution have affected the development of American society, and they will analyze the major economic and social problems that confront the nation today.

***Grade twelve** (Principles of American Democracy; Economics).* In the first semester of the twelfth grade, students examine closely the institutions of American democracy, discussing the privileges and responsibilities of citizens in a democracy, including the importance of registering to vote at the age of eighteen years.

In the second semester, students study the basic concepts of economics, enabling them to understand the economic problems and institutions of the United States and other countries.

Science Framework for California Public Schools

Kindergarten Through Grade Twelve (1990)
(232 pages, illustrated)

The 1990 *Science Framework* presents the three basic scientific fields of study—physical, earth, and life sciences—through a thematic approach, stressing the interrelatedness of these three fields throughout all grade levels of science instruction. Six major themes were selected for development in the framework: energy, evolution, patterns of change, scale and structure, stability, and systems and interactions. These themes (or other thematic strands that might be chosen by the teacher or textbook writer) can then be used as a means of linking facts and ideas within and among the scientific disciplines.

Themes serve to integrate the curriculum and stress the interconnectedness of science.

The framework also emphasizes the fact that the character of science must be open to inquiry and controversy and free of dogmatism; the curriculum promotes students' understanding of how we come to know what we know and how we test and revise our thinking. One of the framework's goals is to help bring the joy and power of scientific inquiry and understanding to all students.

Three separate sections in the framework relate specifically to moral and civic education: (1) Scientific Practice and Ethics; (2) Social Issues in Science; and (3) Values and Ethics [in teaching science]. A brief synopsis of each section follows.

Scientific practice and ethics. Teachers must strive to show students how expectation and openness both play important roles in science. Scientific knowledge must be presented as authoritative, not authoritarian. We can depend on scientific knowledge and theory, yet we can always learn more and must constantly revise what we know in the light of new discoveries.

Science is based on observations set in a testable framework of ideas. To observe is to use the evidence of our senses to obtain the information on which scientific work is based. Scientific inquiry is guided by theory, which is a logical construct of facts and hypotheses that attempts to explain a range of natural phenomena.

Theories are sometimes replaced wholly or in part by new theories. The new theory does this by explaining everything that the old theory explained, as well as other evidence that might not have fit very well in the old theory. This is how science proceeds. But science never commits itself irrevocably to any fact or theory, no matter how firmly it appears to be established in the light of what is known. This is not a weakness of uncertainty but a strength of self-correctability.

Science is not a matter of belief; rather, it is a matter of conclusive evidence that can be subjected to the tests of observation and objective reasoning. The open competition of ideas is a major part of the excitement of science. Emphasis in the classroom should

"Science is not a matter of belief; rather, it is a matter of conclusive evidence that can be subjected to the tests of observation and objective reasoning."

be placed not on coming up with the right answers but on doing science the right way.

Social issues in science. Some scientific issues that arouse controversy are ethical, some involve clarification of scientific methods and philosophy, and some are not strictly within the realm of science. School boards, administrators, and parents must support the teaching of rigorous science, a rational application of science to scientific and technological activities. Science instruction should respect the private beliefs of students; on the other hand, the teaching of science cannot be suppressed simply because some individuals disagree with findings on religious or philosophical grounds.

The framework explores four socially sensitive issues, suggesting ways in which educators can present them to students: (l) conservation; (2) animal experimentation; (3) evolution; and (4) human reproduction.

Values and ethics [in the teaching of science]. As a human endeavor, science has a profound impact on society. Values and ethics are important components of science teaching and must be considered by teachers, textbook authors, and curriculum writers. It is important to (l) identify the commonly shared values of the scientific community; (2) promote scientific values in the classroom; and (3) develop rational decision-making skills applicable to major issues of personal and public concern.

Visual and Performing Arts Framework for California Public Schools

Kindergarten Through Grade Twelve
(1989 edition)
(182 pages, illustrated)

The foreword to this framework includes this quote from John Ruskin: "Great nations write their autobiographies in three manuscripts: the book of their deeds, the book of their words, and the book of their art. Not

one of these books can be understood unless we read the two others; but of the three, the only trustworthy one is the last." Learning through the arts makes both the book of our deeds and the book of our words come to life and reach us at a more profound and personal level. The arts are a powerful vehicle for communicating ideas and the ideals we hold to be important in a democracy.

The *Visual and Performing Arts Framework* presents four major disciplines of the arts: (1) dance; (2) drama/theatre; (3) music; and (4) the visual arts. It promotes enlightened teaching in the arts, introducing students to many avenues for expressing what they observe, feel, and believe.

Two separate approaches for teaching these four areas of the arts are interwoven in the framework. The first approach views arts instruction as direct involvement in the expressive modes of the arts. In expressing the creative power of their minds through the arts, students become cognizant of and value their own capacities and personal uniqueness and appreciate and become sensitive to the creative expression of others. The arts are an avenue toward elevated self-concept and the acceptance of alternatives and are essential for our pluralistic school population.

The second approach to teaching views the arts as a means of acquiring cultural literacy.

"The study of the arts within a broad cultural context, past and present, helps students gain appreciation and understanding of varied cultures, the commonality of these cultures, and of their own cultural heritage."

Students study aesthetics, cultural heritage, and the history of the visual and performing arts, including the continuing impact of the arts on all societies worldwide. Comprehending works of art at a deep and significant level of understanding helps students see these works as part of the body of knowledge defining every culture. They become aware that the arts cut across cultural boundaries to provide mutual understanding, appreciation, and respect.

Some of the special values and benefits of arts education that are identified in this framework are the following:

1. The study of the arts within a broad cultural context, past and present, helps students gain appreciation and understanding of varied cultures, the commonality of these cultures, and of their own cultural heritage.
2. In developing aesthetic values, students study the sensory, intellectual, emotional, and philosophic bases for understanding the arts and for making judgments about their form, content, technique, and purpose. Through study and direct experience, the student develops criteria for arriving at personal judgments.
3. A multidisciplinary approach involving all the arts may be used to study a broad societal value, such as democracy, courage, justice, beauty, interdependence, or family. In the study of a value, each of the arts develops concepts that lead to the formation of broad generalizations that are inherent in the value. The multidisciplinary approach can be extended to social science, language arts, and the other areas of the curriculum.

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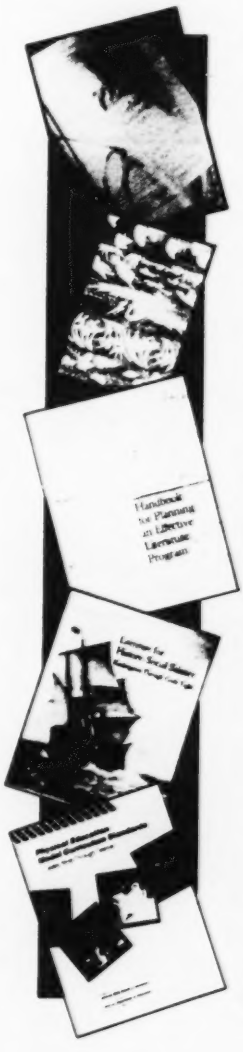
Five curricular frameworks, as they relate to the text of *Moral and Civic Education and Teaching About Religion*, are discussed in Chapter IV. If you wish to order your own copies of the complete frameworks, also use the form on the following page.

Brief descriptions of several other recent publications of particular interest to classroom teachers follow:



English–Language Arts Model Curriculum Standards
Grades Nine Through Twelve, Second Edition (1991)
(60 pages, illustrated) $4.50 ISBN 0-8011-0927-2

The standards represent the strongest possible professional consensus about the content in English–language arts courses that every student should be exposed to before graduating from high school. School districts are required to compare their local curriculum to the model standards at least every three years.

A Handbook for Teaching Japanese-Speaking Students (1987)
(136 pages) $4.50 ISBN 0-8011-0680-x

This is the most recent in a series of four handbooks designed especially for teachers who have language-minority students in their classes. The others are for teachers of students who speak Cantonese (88 pages), Pilipino (96 pages), and Portuguese (118 pages); each handbook is $4.50.

Handbook for Planning an Effective Literature Program
Kindergarten Through Grade Twelve (1987)
(72 pages, illustrated) $3.00 ISBN 0-8011-0320-7

Building on the literature-based philosophy presented in the *English-Language Arts Framework*, this handbook presents specific information to help teachers and curriculum planners design and implement literature programs. It won a distinguished achievement award from the Educational Press Association of America in 1988.

Literature for History–Social Science
Kindergarten Through Grade Eight (1991)
(144 pages) $5.25 ISBN 0-8011-0892-6

This extensive literature list, presented by grade level, provides a major support for teachers in implementing the *History-Social Science Framework*'s emphasis on history-related literature in the classroom. It underscores recent findings that the use of historical fiction and biography can promote students' interest in and enthusiasm for studying history.

Physical Education Model Curriculum Standards
Grades Nine Through Twelve (1991)
(40 pages) $4.50 ISBN 0-8011-0831-4

In adopting these standards in 1990, the State Board of Education met its legislative mandate to provide the schools of California with a guide for determining the strength

of their physical education programs. The standards emphasize that instruction in health and physical education is just as important as instruction in the core subjects and that healthy bodies are important to the development of healthy and productive minds.

Toward a State of Esteem: The Final Report of the California Task Force to Promote Self-esteem and Personal and Social Responsibility (1990)
(160 pages) $4.00 ISBN 0-8011-0846-2

The findings and recommendations of a three-year study by the 26-member California task force are presented in this publication, which includes a separate 24-page section on "education, academic failure, and self-esteem." The document was featured in the March, 1991, issue of the *New Woman* magazine. A 120-page document of appendixes is also available for $4.

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